

Remarks

In the Office Action dated 09/24/2008, claims 39, 42, 43, 45-47, 51, 65-68, and 75-76 were rejected under 35 U.S.C. §103(a) as being obvious over Assisi (U.S. 5,696,488) in view of Bexten (U.S. 6,205,133), Evans III (U.S. 5,732,231), Pearlson (U.S. 5,271,669), Boggio (U.S. 5,404,343), Johnson et al. (U.S. 6,453,302), and McCarty et al. (U.S. 5,946,660). Claim 71 was rejected under 35 U.S.C. §103(a) as being obvious over Assisi in view of Bexten, Evans III, Pearlson, Boggio, Johnson et al., McCarty et al., and further in view of Chandler, Jr., et al. (U.S. 4,835,983). Under MPEP 2143.03, in order to establish a *prima facie* case of obviousness, the Office must give due consideration to all of the limitations of a claim. The Office must also sufficiently establish a motivation to combine or modify the teachings of the prior art in order to reach a claimed invention in accordance with MPEP 2143.01. Obviousness rejections “cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1395-97 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). For at least the reasons set forth below, Applicant respectfully submits that the combined art of record fails to render any of the present claims obvious.

Applicant submits that the art of record fails to teach or suggest all of the limitations recited in each independent claim in accordance with MPEP 2143.03. For instance, as noted in Applicant’s previous response, amended independent claim 39 recites that a kiosk in a mausoleum (which is in the cemetery) is in communication with the computer readable medium that resides at the centralized office separate from the cemetery, via a network. (see element “g” of claim 39). These limitations, among others recited in amended claim 39, are neither taught nor suggested by the combined art of record. Indeed, the Office appears to have overlooked this limitation in formulating the §103 rejections of the 09/24/2008 Office Action. Applicant therefore submits that the combined art of record fails to teach or suggest all of the limitations of amended claim 39 in accordance with MPEP 2143.03. Accordingly, Applicant respectfully submits that the combined art of record fails to render present claim 39 obvious in accordance with MPEP 2143, and respectfully requests that the rejection be withdrawn.

Amended independent claim 75 also recites that a kiosk in a mausoleum (which is in the cemetery) is in communication with the computer readable medium that resides at the centralized office separate from the cemetery, via a network. (see element “e” of claim 75). These limitations, among others recited in amended claim 75, are neither taught nor suggested by the combined art of record. Again, the Office appears to have overlooked this limitation in formulating the §103 rejections of the 09/24/2008 Office Action. Applicant therefore submits that the combined art of record fails to teach or suggest all of the limitations of amended claim 75 in accordance with MPEP 2143.03. Accordingly, Applicant respectfully submits that the combined art of record fails to render present claim 75 obvious in accordance with MPEP 2143, and respectfully requests that the rejection be withdrawn.

Amended independent claim 76 also recites that a kiosk in a mausoleum (which is in the cemetery) is in communication with the computer readable medium that resides at the centralized office separate from the cemetery, via a network. (see element “e” of claim 76). These limitations, among others recited in amended claim 76, are neither taught nor suggested by the combined art of record. Again, the Office appears to have overlooked this limitation in formulating the §103 rejections of the 09/24/2008 Office Action. Applicant therefore submits that the combined art of record fails to teach or suggest all of the limitations of amended claim 76 in accordance with MPEP 2143.03. Accordingly, Applicant respectfully submits that the combined art of record fails to render present claim 76 obvious in accordance with MPEP 2143, and respectfully requests that the rejection be withdrawn.

Applicant further notes that the pending dependent claims include additional limitations not taught or suggested in the art of record, thus forming independent basis for non-obviousness.

Because the Office failed to address the above-noted limitations of independent claims 39, 75, and 76 in the 09/24/2008 Office Action, Applicant has not been given a full and fair opportunity to respond. Therefore, it would be inappropriate to make a subsequent Office Action final.

Conclusion

While several distinctions have been noted over the art of record, Applicant notes that there are several other limitations recited in the present claims which are neither taught nor suggested by the art of record. Applicant expressly reserves all rights and arguments with respect to distinctions not explicitly noted herein. In addition, to the extent that the amendments constitute a narrowing of the claims, such narrowing of the claims should not be construed as an admission as to the merits of the prior rejections. Indeed, Applicant traverses the rejections and preserves all rights and arguments. To the extent that any particular statement or argument by the Office in the pending Office Action has not been explicitly addressed herein, the same should not be construed as an acquiescence or admission by the Applicant that such statements or arguments by the Office are accurate or proper.

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant respectfully requests reconsideration and an early notice of allowance. Should the Examiner wish to discuss the amendments or arguments made herein, Applicant invites the Examiner to contact the undersigned at (513)369-4811 or via e-mail at aulmer@fbtlaw.com.

The Commissioner for Patents is hereby authorized to charge any deficiency, including any fees required for an extension of time not already paid for or any other required fees not already paid for, or to credit any overpayment of fees, to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully Submitted,

/Andrew B. Ulmer/
Andrew B. Ulmer, Reg. No. 57,003
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202
(513) 369-4811
aulmer@fbtlaw.com